



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,601	03/23/2001	James T. Lynn	GE04347	3710

7590 05/26/2006

MOTOROLA INC  
101 TOURNAMENT DRIVE  
HORSHAM, PA 19044

EXAMINER
----------

DAVIS, ZACHARY A

ART UNIT	PAPER NUMBER
----------	--------------

2137

DATE MAILED: 05/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/814,601	LYNN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Zachary A. Davis	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

1. A response was received on 21 March 2006. No claims have been amended, added, or canceled. Claims 1-5 are currently pending in the present application.

### ***Response to Arguments***

2. Applicant's arguments filed 21 March 2006 have been fully considered but they are not persuasive.

Regarding the rejection of Claims 1-5 under 35 U.S.C. 102(e) as anticipated by Slivka et al, US Patent 6049671, Applicant argues that Slivka does not disclose or suggest all of the claimed limitations. Specifically, Applicant first argues that Slivka "discloses a method of providing mainly updates and patches" (page 3, lines 1-2 of the present response). The Examiner notes that this does not distinguish Slivka from the present invention, as Applicant's specification also discloses that the method is used for downloading upgrades to components or operating systems (see, for example, page 4, lines 7-9, of the present specification; see also page 1, lines 14-21).

Applicant further argues that the cabinet files of Slivka, corresponding to the claimed configuration file, correspond to a program or group of programs, whereas "the claimed configuration file corresponds to a network element" (page 3, lines 12-15 of the present response). The Examiner first notes that the phrase "network element" appears neither in the claims nor the specification; however, it is assumed that this is intended to

refer to the claimed "network appliance". Further, the Examiner notes that although the cabinet files do correspond to particular software programs, they also correspond to a user, noting that cabinet files are created specifically in response to a user request for software (see Slivka, column 13, lines 37-60).

Applicant further alleges that "Slivka is not concerned whether or not the network element itself is authorized to operate a program" (see page 3, lines 18-20, of the present response). However, the Examiner notes that Applicant also states that Slivka discloses that programs or updates may be digitally signed and that the digital signature is checked to determine if access to the downloaded program is authorized (see page 3, lines 8-11, of the present response, citing Slivka, column 16, line 55-column 18, line 15). The Examiner additionally notes that listing software that is available to the user or appliance at least implies that the user or appliance is therefore authorized to download the software (otherwise it would not be "available"). Applicant appears to concede this point by stating that "listing available software for download does implicate an authorization of the network element" (page 4, lines 1-2, of the present response, noting again that it is assumed that "network element" is intended to refer to the claimed network appliance).

Applicant additionally argues that the installation table described, for example, at column 15, lines 50-55, of Slivka, does not perform the function of the claimed load table. However, the previous Office actions have all explicitly mapped the claimed load table, defining components authorized for the network appliance, to the summary of available software at column 8, lines 34-37, of Slivka (see, for example, page 4 of the

Art Unit: 2137

previous Office action). Further, as noted in the previous Office action, based on this summary of available software, the user authorizes which software is to be downloaded (see Slivka, column 5, lines 55-65; column 6, lines 39-49; and column 8, lines 6-32; further, especially note column 8, lines 43-56, where the user chooses software to be downloaded, i.e. the user authorizes or gives permission for downloading software). The Examiner again notes Applicant's statements that the digital signature on the programs is checked to determine if access to the program is authorized (page 3, lines 8-11, of the present response, citing Slivka, column 16, line 55-column 18, line 15, as noted above) and that "listing available software for download does implicate an authorization" (page 4, lines 1-2, of the present response, as noted above).

Therefore, for the reasons detailed above, the Examiner maintains the rejection as set forth below.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2137

4. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Slivka et al, US Patent 6049671.

In reference to Claim 1, Slivka discloses a method for securely distributing a component including signing a configuration file (the cabinet in the distribution file of column 16, line 55-column 17, line 1) including a load table (the summary of available software of column 8, lines 34-37), executing a secure kernel for checking the authenticity of the configuration file (column 17, lines 58-63) and for establishing communication with a network host (column 6, lines 12-18), verifying the authenticity of the configuration file (column 17, lines 58-63), reading the load table, and loading authorized components defined in the load table onto a network device (column 8, line 65-column 9, line 2).

In reference to Claim 2, Slivka further discloses that the loaded available software can be an operating system (the database of available software of column 7, lines 49-57, can include operating system components).

In reference to Claim 3, Slivka further discloses loading a software application (column 7, lines 49-64; column 8, line 65-column 9, line 2).

In reference to Claim 4, Slivka further discloses that the loaded available software can be services (the database of available software of column 7, lines 49-57 can include patches, fixes, and wizards).

In reference to Claim 5, Slivka further discloses generating an updated configuration file (column 8, lines 27-33), signing the updated configuration file (column 16, lines 65-67), transmitting the signed configuration file (column 8, lines 34-37),

Art Unit: 2137

verifying the authenticity of the updated configuration file (column 17, lines 58-63), and reading the updated configuration file (column 8, lines 34-46).

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. The Examiner again notes that Misra et al, US Patent 6189146, discloses a system for installing software in which a license pack for the software is digitally signed and distributed (as cited in the previous Office action).

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 2137

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zachary A. Davis whose telephone number is (571) 272-3870. The examiner can normally be reached on weekdays 8:30-6:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
zad

  
EMMANUEL L. MOISE  
SUPERVISORY PATENT EXAMINER